

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

HUMANTOUCH, LLC,
Plaintiff)
v.
JOSIAH CUSHING,
Defendant)

Case No.

2013 NOV 18 P 2:40
CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

1:13 CV 1415

TSE/JFA

NOTICE OF REMOVAL OF CIVIL ACTION

Defendant Josiah Cushing (“Defendant”), by and through undersigned counsel, Defendant in *Humantouch, LLC v. Josiah Cushing*, Case No. 2013-14825, before the Circuit Court for Fairfax County, Virginia, hereby files this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, on the basis of jurisdiction under 28 U.S.C. § 1332 (a). In support of this Notice, Defendant states the following as grounds:

1. On September 24, 2013, Plaintiff Humantouch, LLC (“Plaintiff”) filed an action against Defendant in the Circuit Court for Fairfax County, Virginia. That action (“the state court action”) is styled *Humantouch, LLC v. Josiah Cushing*, and has the case number 2013-14825. A copy of the Complaint in that matter is attached hereto as Exhibit A.
2. On September 30, 2013, a Summons was issued for Defendant in the state court action. A copy of the Summons is attached hereto as Exhibit B.
3. On October 29, 2013, the Summons and Complaint were served upon Defendant. This was also the first receipt by Defendant of a copy of the initial pleading setting forth Plaintiff’s claim for relief.
4. Plaintiff is a Virginia Limited Liability Company with its headquarters and principal place of business in Virginia. See Exhibit A, ¶ 1.

5. Defendant is a resident of Maryland. *See Exhibit A, ¶ 5, Exhibit B.*
6. Defendant is the only defendant in the state court action. *Exhibit A.*
7. The Circuit Court for Fairfax County, Virginia is within the territory embraced by the United States District Court for the Eastern District of Virginia, and within the territory embraced by the Alexandria Division of this Court.
8. Plaintiff has alleged monetary damages in excess of \$75,000.00, such damages being enumerated as at least \$320,000.00, as well as seeking injunctive relief. *Exhibit A at 26.*
9. This Court has original jurisdiction to hear this matter pursuant to 28 U.S.C. § 1332 (a) because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00.
10. This matter may be removed to this Court pursuant to 28 U.S.C. § 1441 (a) because it is a matter which this Court has original jurisdiction to hear pursuant to 28 U.S.C. § 1332 (a), because it has been brought within the territory embraced by this Court and this Division of this Court, and pursuant to 28 U.S.C. § 1441 (b)(2) because Defendant is not a citizen of Virginia.
11. This Notice of Removal is timely filed, as it is within 30 days of the date of service and receipt of the Complaint. 28 U.S.C. § 1446 (b)(1).
12. Promptly after the filing of this Notice of Removal, Plaintiff will be given a copy of this Notice and a copy will be filed with the Clerk of the Circuit Court for Fairfax County, under the cover attached hereto as Exhibit C.
13. This Notice of Removal does not constitute a waiver of any defenses Defendant has to this action or the right to deny or contest any allegation set forth in the Complaint in this matter.

WHEREFORE, Defendant Josiah Cushing gives notice that this matter is removed to this Court from the Circuit Court for Fairfax County.

Respectfully submitted,
Josiah Cushing
By Counsel



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Certificate of Service

I hereby certify that on this 16 day of November, 2013, I will send a copy of the foregoing by U.S. Mail and facsimile to Counsel for Plaintiff at:

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